

FILED
JAN 14 2010

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

LEO JAMES CHRISTIAN,

CV No. 10-01032-ST

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION**

v.

MARK NOOTH,

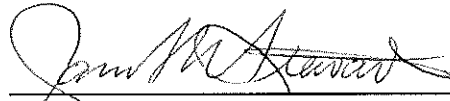
Respondent.

This matter having come before the Court on the motion of the Petitioner to voluntarily dismiss Leo James Christian's habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. After petitioner exhausts his post-conviction claims, Petitioner has leave to re-file this case, for one ninety-nine (199) days after the entry of the Oregon Court of Appeals Appellate Judgment subsequent to the Oregon Supreme Court's decision in petitioner's post-conviction proceedings. After the Court of Appeals

enters judgment and the Petitioner moves to re-file this case during the above-referenced 199-day period, Petitioner may also amend the Petition as of right so as to properly plead all claims, including his post-conviction claims in this Court. If the case is re-filed, Respondent may assert any procedural defenses that are not inconsistent with this Order.

IT IS SO ORDERED this 14th day of January, 2011.



The Honorable Janice M. Stewart
United States Magistrate Judge

Submitted by:

s/Tonia L. Moro

Tonia L. Moro

Attorney for Petitioner Leo James Christian (by consent)